



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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CITY OF LANCASTER,

C1606006

Complainant,

V.

SOUTHERN CALIFORNIA EDISON COMPANY
(U338E),

Defendant.

Case No. _____

**Subject to CCA Expedited
Complaint Procedures**

**COMPLAINT OF THE CITY OF LANCASTER
AGAINST SOUTHERN CALIFORNIA EDISON COMPANY
(Pub. Util. Code §366.2(c)(11) and §707)**

COMPLAINANT	DEFENDANT
<p>Lancaster Choice Energy City of Lancaster Attn: Barbara Boswell Director 44933 Fern Avenue Lancaster, CA 93534 Tel: (661) 723-6035 E-mail: bboswell@cityoflancasterca.org</p>	<p>Southern California Edison Company (U338E) Attn: Fadia Rafeedie Khoury Director & Managing Attorney 2244 Walnut Grove Avenue Rosemead CA 91770 T-626-302-6008 Email1: fadia.khoury@sce.com Email2: case.admin@sce.com</p>

CITY OF LANCASTER,)	
)	
Complainant,)	
)	Case No. _____
v.)	
)	Subject to CCA Expedited
SOUTHERN CALIFORNIA EDISON COMPANY)	Complaint Procedures
(U338E),)	
)	
Defendant.)	

Pursuant to California Public Utilities Code sections 366.2, 701, 702, 707, 1702 and 2106, Article 4 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission"), and the Community Choice Aggregation ("CCA") Code of Conduct and Expedited Complaint Procedure ("CCA Code of Conduct"), adopted by the Commission in Decision ("D.")12-12-036, the City of Lancaster ("Lancaster") files this expedited Complaint against Southern California Edison Company ("SCE") and alleges the following:

1. This Complaint seeks an order to show cause requiring SCE to appear before the Commission at the earliest possible date to demonstrate why SCE should not be held in violation of D.12-12-036, D.08-02-002 and Resolution E-4013. As further

described below, the essence of Lancaster's Complaint is that, notwithstanding numerous requests and meetings, SCE is refusing to implement timely billing system changes. SCE's continuing refusal to implement billing system changes has the effect of discriminating against Lancaster's CCA customers, in contravention of Senate Bill ("SB") 790 and the CCA Code of Conduct.

2. SCE has refused to implement timely billing system changes in two areas. First, SCE is not providing Lancaster's 3,317 Net Energy Metering ("NEM") customers with the full amount of bill credits that they are entitled to receive under various Commission decisions, even though SCE provides these credits to its own NEM customers. This conduct violates the non-discrimination provisions of D.12-12-036, D.08-02-002 and Resolution E-4013. Second, SCE is not providing information and important details on bills that it issues to Lancaster's customers in general, regardless of whether or not they are NEM customers. SCE provides these details on bills that it issues to its bundled customers. For example, SCE does not include usage and rate information for Lancaster's generation charges on bills issued to Lancaster customers, but does include usage and rate information on bills issued to its bundled customers. SCE's conduct violates the non-discrimination provisions of D.12-12-036 and violates Resolution E-4013.

3. This Complaint also seeks an order from the Commission directing SCE (a) to remedy the problems with billing and charges within a reasonable amount of time, but in no event more than 3 months from the Commission's decision in this matter; (b) to immediately implement re-billing procedures to correct continuing billing errors with Lancaster's NEM customers caused by SCE's refusal to implement timely billing system changes; (c) to immediately issue notices to Lancaster's customers, notifying them of current problems with billing and charges and presenting a detailed plan and timetable for

remedial action; and (d) to reimburse Lancaster for its costs and expenses, including attorney fees, associated with remedying SCE's discriminatory conduct.

PROCEDURAL INFORMATION

4. Pursuant to Rule 4.2 of the Commission's Rules of Practice and Procedure, Lancaster provides the following:

a. Complainant Lancaster is a California municipality that has established a CCA program pursuant to Assembly Bill ("AB") 117 and California Public Utilities Code sections 218.3, 331.1, 366, 366.2, 381.1, 394, and 394.25. Lancaster's principal place of business is in Lancaster, California.

b. Defendant SCE is a California public utility operating under the jurisdiction of the Commission with its principal place of business in Rosemead, California.

c. The full name, address and telephone number of the Complainant, the Defendant and their attorneys are as follows:

Complainant:

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- d. This proceeding should be categorized as adjudicatory.
- e. Because the parties disagree on facts that are relevant to this Complaint, Lancaster requests that hearings be held within 30 to 45 days of the filing of the Complaint, pursuant to Rule 27 of the CCA Code of Conduct.
- f. The issues to be considered are as follows:
 - i. Has SCE violated the standards set out in Resolution E-4013, D.12-12-036, and D.08-02-002, by failing to provide Lancaster's customers with the same billing services, including billing details and bill credits, and NEM services that SCE provides to its own bundled customers?
 - ii. Must SCE remedy its billing and NEM charge issues immediately, issue notices to Lancaster's customers notifying them of plans for remedial action, and reimburse Lancaster for costs associated with remedy SCE's discriminatory conduct?
- g. Lancaster proposes the following schedule:

Instruction to Answer	Week of June 6, 2016
Answer	On or about June 20, 2016
Prehearing Conference	One week after Answer (on or about June 27, 2016)
Discovery (if any)	Pursuant to prehearing conference
Evidentiary Hearings (if necessary)	Week of July 11, 2016

Opening Briefs	Week of July 25, 2016
Reply Briefs	Week of August 1, 2016
Presiding Officer's Decision	Week of August 15, 2016
Final Decision	Week of August 29, 2016

STATEMENT OF FACTS

5. Lancaster is a community of approximately 160,000 residents located in northern Los Angeles County, in the High Desert region of the western Mojave Desert, which is rich in solar resources. The Lancaster City Council voted to approve Ordinance 997 on May 27, 2014, to establish a CCA program, Lancaster Choice Energy (“LCE”), pursuant to AB 117 and California Public Utilities Code sections 218.3, 331.1, 366, 366.2, 381.1, 394, and 394.25. Lancaster’s stated goal in establishing LCE, among other goals, is to improve the environmental and economic conditions of its community, region, country, and the world.

6. Lancaster is the first CCA program to file an implementation plan in SCE’s territory, and Lancaster filed its initial plan with the Commission on June 9, 2014. Lancaster filed a revised implementation plan on September 29, 2014, and it was certified by the Commission’s Energy Division on October 16, 2014. The original CCA implementation plan and revised implementation plan call for the enrollment of customers in phases.

7. Lancaster launched LCE in May 2015 by enrolling municipal accounts and a limited number of residential and commercial accounts, including NEM accounts, on a pre-enrollment basis. The City completed the launch for residential and all other customer

classes in October 2015, ultimately enrolling over 52,000 customers, which presently include 3,317 NEM customers.

8. After Lancaster pre-enrolled a select number of residential accounts in May 2015, participating NEM customers (who had previously been SCE customers) notified Lancaster that (a) their bills had been revised and charges had been reorganized into different categories; (b) they were no longer able to net generation credits against charges that are classified under the Cost Responsibility Surcharge (“CRS”) category of their bills, including the Department of Water Resources (“DWR”) Bond Charge, the Power Charge Indifference Adjustment (“PCIA”) and the Competition Transition Charge (“CTC”); and (c) they were being charged more than they had been typically been charged in the past.

9. Lancaster inquired with SCE about NEM billing and charges and learned from SCE personnel that, while SCE’s bundled service customers are able to net bill credits against the DWR Bond Charge and other components of the CRS, CCA customers were unable to net their bill credits against the same charges. (Exhibit 1: Lancaster Meet and Confer Letter, October 13, 2015.)

10. Lancaster made several additional inquiries with SCE to understand why its NEM customers were receiving disparate treatment, and requested changes to SCE’s practices to obtain relief for its customers. When these efforts failed to result in any changes, Lancaster notified SCE in a “meet and confer” letter dated October 13, 2015, that its billing practices violated Commission decisions and policy, and that if the billing problems were not timely resolved Lancaster would file a formal complaint with the Commission. (Exhibit 1: Lancaster Meet and Confer Letter, October 13, 2015.)

11. SCE responded with a detailed email message on October 22, 2015, stating that “SCE agrees that it is reasonable to allow [Departing Load] NEM customers to net

CRS credits that result from net generation against CRS charges that result from net consumption.” (Exhibit 2: SCE Email Response, October 22, 2015.) SCE also stated that “SCE proposes to file an advice letter by no later than Nov 13, 2015 requesting approval of changes to its tariffs to net credits against CRS. We would propose to do so for all current Relevant Periods, meaning some retroactive application of the change back to the start of each current Relevant Period, and prospectively on an ongoing basis.” (Exhibit 2: SCE Email Response, October 22, 2015.) SCE’s email message made no reference to the amount of time required to implement changes to SCE’s billing and charges.

12. SCE filed Advice Letter (“AL”) 3308-E with the Commission on November 13, 2015, and stated as follows:

The purpose of this advice letter is to modify SCE’s Net Energy Meeting (NEM) tariffs, as outlined below, to allow Direct Access (DA) and Community Choice Aggregation (CCA) Service Eligible Customer-Generators (Customers) to receive monthly Cost Responsibility Surcharge (CRS) credits based on the applicable components of Schedule DA-CRS, Direct Access Cost Responsibility Surcharge, and Schedule CCA-CRS, Community Choice Aggregation Cost Responsibility Surcharge, when they net generate to offset monthly CRS charges incurred over the course of an NEM Relevant Period.

(SCE AL 3308-E at 1.) AL 3308-E addresses several changes to SCE’s existing tariffs and includes as an attachment revised rate schedules, including Schedule NEM: Net Energy Metering.

13. SCE’s AL 3308-E also includes a brief statement about the amount of time it will take to implement the changes. After describing the changes to the tariffs and rate schedules, SCE states that “changes to SCE’s billing system are necessary to accommodate this change. Therefore, a rebill may be necessary once the system changes are complete.” (SCE AL 3308-E at 5.) The letter does not contain any estimate of the amount of time required to implement changes to SCE’s billing system, or the anticipated date of the rebill.

Moreover, in its discussions with Lancaster, SCE failed to mention any delays associated with implementing NEM billing changes.

14. In a disposition letter from the Commission's Energy Division Director, dated February 29, 2016, the Commission approved SCE's AL 3308-E, with an effective date of December 13, 2015. As of the date of this Complaint, however, SCE has not implemented the changes described in AL 3308-E.

15. Separately, since Lancaster's initial launch and enrollment of customers in May 2015, Lancaster's CCA customer bills have been devoid of electricity usage and Lancaster generation charges, among other billing details. Unlike SCE bundled customer bills, Lancaster's CCA customer bills include only summary information about Lancaster's program charges. (Exhibit 3: Bundled Customer Bill Comparison.) This is the case, even though Lancaster submits usage and rate information to SCE each month, as required under SCE's Rule 23, which outlines the procedures for generating CCA customer bills in SCE's territory.

16. The lack of information provided to Lancaster's customers on their monthly bills prevents Lancaster from providing meaningful information to their customers as part of the billing process, gives the false impression that Lancaster is inattentive to its customers and lacks the sophistication required to provide pricing details, and harms Lancaster's ability to engage with its customers. Moreover, SCE's failure to provide this important billing information to Lancaster's CCA customers results in discriminatory treatment as between customers participating in Lancaster's CCA program and SCE's own customers.

17. Lancaster has complained to SCE about this lack of detail on numerous occasions, beginning over a year before the date of this complaint. LCE Director Barbara

Boswell held a conference call with SCE representatives Chris Tran, Martha Dobler, and Wendy Ethier on May 26, 2015, during which SCE agreed to discuss with their information technology staff the logistics of changing the contents of Lancaster's customer bills in order to provide comparable detail to bundled customer bills. SCE never replied, and to Lancaster's knowledge, SCE never followed up on this matter.

18. LCE Director Barbara Boswell held three additional calls with SCE representative Chris Tran, first on June 9, 2015, a week later on June 16, 2016, and again on June 18, 2015, during which Ms. Boswell specifically requested that the field describing Lancaster's services in its customers' bills be expanded beyond twenty two characters to allow Lancaster to provide additional billing information. During those conversations, Mr. Tran indicated that he was working on a short-term remedy for Lancaster's issue. Lancaster never received a response, and to Lancaster's knowledge no short-term remedies have been implemented.

19. Later, on June 30, 2015, LCE Director Barbara Boswell spoke again with SCE representative Chris Tran and asked for SCE to include Lancaster's input in future bill revisions. Ms. Boswell also sent a bill mockup prepared by Lancaster to SCE the same day. SCE never responded to Ms. Boswell's request. Ms. Boswell followed up on August 21, 2015, in an email to Chris Tran in which she resent the bill mock up and again asked why SCE was not working with Lancaster. Ms. Boswell again received no response.

20. SCE representatives Martha Dobler and Kathryn Anderson participated in an in-person meeting with Lancaster staff on July 13, 2015. The parties discussed Lancaster's issues with its customer bills and Lancaster's representatives asked again for SCE to consult with their information technology staff to implement Lancaster's requested changes.

21. SCE representative Chris Tran informed Lancaster on August 11, 2015 that SCE would not be implementing the changes that had been requested, and that SCE was making its own changes. LCE Director Barbara Boswell requested information identifying the specific changes SCE was making, and an answer to why Lancaster's requests were not being accepted. On August 19, 2015, Ms. Boswell spoke with SCE representative Jessica Mack, who expressed SCE's commitment to fix Lancaster's billing issues before LCE's October enrollment phase. However, these changes were never made.

22. LCE Director Barbara Boswell again sent Lancaster's sample bill to SCE, this time in an email to SCE representative Michelle Stark, on November 3, 2015.

23. LCE Director Barbara Boswell and other Lancaster staff members participated in a conference call with SCE representatives Michelle Stark, Martha Dobler, Muir Davis, Wendy Ethier on January 26, 2016. During that call, the parties discussed Lancaster's proposed changes to customer bills and what could be accomplished in the short term versus the long term. SCE representatives, however, did not make any commitment to making billing changes during this call.

24. A series of additional meetings in person and over the phone between Lancaster and SCE occurred during which SCE eventually agreed upon various minor changes to Lancaster customer bills. However, SCE never committed to make the changes within any specific amount of time. The changes that SCE committed to make are described in two documents that were reviewed by Lancaster and SCE, a side-by-side bill comparison and a summary of the changes that the parties had agreed upon. Both documents are attached to this Complaint. (Exhibit 3: Bundled Customer Bill Comparison; Exhibit 4: Bill Format Agreed Changes.)

25. At a meeting with SCE representatives on March 15, 2016, Lancaster

learned for the first time that SCE estimated that it would take an entire year from the date of the meeting to implement the changes to SCE's billing system necessary to properly bill and charge Lancaster's NEM customers under AL 3308-E and to display important details, including rate and usage information for Lancaster's generation charges, on Lancaster's CCA customer bills.

26. Lancaster submitted a second "meet and confer" letter on April 1, 2016, addressing (a) SCE's continuing failure to provide Lancaster's NEM customers with the same bill credits as SCE NEM customers, contrary to SCE AL 3308-E and D.08-02-002; and (b) SCE's continuing failure to display usage and rate information for LCE's generation charges and other critical pricing details on Lancaster's customer bills, in violation of SCE's Rule 23, Resolution E-4013 and the CCA Code of Conduct. (Exhibit 5: Lancaster Meet and Confer Letter, April 1, 2016.)

27. SCE provided a written response on April 15, 2016, stating that SCE will require 7-9 months to complete billing system changes before it can properly administer Lancaster's NEM customer bill credits, and 5-9 months before it can display billing details to all of Lancaster's CCA customers comparable to billing details that SCE provides to its own customers. (Exhibit 6: SCE Response, April 15, 2016.) Instead of completing the billing system changes within six months of the filing of Lancaster's implementation plan with the Commission, as required by Resolution E-4013, SCE proposed in its response to implement such changes nearly two years *after* the initial launch of LCE's program.

28. Lancaster promptly notified the Commission's Energy Division and participated in a teleconference with Commission personnel on Friday, April 22, 2016. During this discussion, Lancaster described the dispute with SCE over NEM billing and charges, as well as SCE's failure to provide billing details to Lancaster's CCA customers

comparable to billing details SCE provides its own customers.

29. In an effort to resolve the dispute, a second teleconference was held with representatives from SCE and Lancaster, as well as Commission personnel, on Thursday, May 5, 2016. The parties did not reach a satisfactory resolution to the dispute.

30. As of the date of this complaint, Lancaster NEM customers are unable to net bill credits against the DWR Bond Charge and other components of CRS, and Lancaster's CCA customers do not receive usage and Lancaster generation charge information that is comparable to the usage and generation charge information SCE provides its own customers.

STANDARDS OF CONDUCT

31. California has adopted a general policy in favor of CCA programs. "It is the policy of the state to provide for the consideration, formation, and implementation of community choice aggregation programs authorized in Section 366.2 of the Public Utilities Code." (SB 790, § 2(a).) The Commission has advanced this policy in various rulings and decisions, including the adoption of the CCA Code of Conduct:

In SB 790, the legislature directed the Commission to develop rules and procedures that "facilitate the development of community choice aggregation programs, ... foster fair competition, and ... protect against cross-subsidization paid by ratepayers." [FN] In developing the Code of Conduct and enforcement mechanisms adopted here, our goal, consistent with this statute, is to provide CCAs with the opportunity to compete on a fair and equal basis with other load serving entities (LSEs), and to prevent utilities from using their position or market power to gain unfair advantages.

(D.12-12-036 at 6 (citing SB 790, § 2(h), and Pub. Util. Code § 707(a)(4)(A).)

32. In keeping with the state policy in favor of CCA programs, the Public Utilities Code provides for an expedited complaint procedure to resolve disputes involving investor-owned utility ("IOU") responsibilities to CCA programs:

The commission shall proactively expedite the complaint process for disputes regarding an electrical corporation's violation of its obligations pursuant to this section in order to provide for timely resolution of complaints made by community choice aggregation programs, so that all complaints are resolved in no more than 180 days following the filing of a complaint by a community choice aggregation program concerning the actions of the incumbent electrical corporation.

(Pub. Util. Code, § 366.2(c)(11).) Rule 24 of the CCA Code of Conduct includes similar language.

33. Rule 29 of the CCA Code of Conduct provides that the Commission has authority to order a wide range of remedies as part of an expedited complaint procedure. “In its expedited adjudication of the complaint, the Commission may impose fines, injunctive relief, or grant any other appropriate remedy without the initiation of a separate Order Instituting Investigation.” (Rule 29, CCA Code of Conduct.)

34. Rule 18 of the CCA Code of Conduct provides:

An electrical corporation *shall not, through a tariff provision or otherwise, discriminate* between its own customers and those of a CCA in matters relating to any product or service that is subject to a tariff on file with the Commission.

(italics added.)

35. In D.08-02-002, the Commission instructed the IOUs to modify their tariffs in order to accommodate CCA customers and to offer CCA customer-generators “the same NEM service it offers its own customers, with the utility providing the transmission and distribution credit to eligible CCA NEM customers and the CCA offering the generation credit to eligible CCA NEM customers.” (D.08-02-002 at 6.)

36. As part of D.08-02-002, the Commission also ordered the IOUs to provide service that is “consistent with NEM service to utility customer-generators and consistent with CCA rules as described in Rule 23 for SCE” (D.08-02-002; Ordering Paragraph 1.)

37. Pursuant to AB 117, the Commission adopted D.05-12-041. D.05-12-041 addressed various issues related to transactions between IOUs and CCA programs, and ordered the IOUs to file advice letters with revised CCA tariffs for the purpose of finalizing the implementation details of CCA programs, which the IOUs did on February 14, 2006. (See PG&E AL 2784-E, SCE AL 1965-E, and SDG&E AL 1773-E.)

38. Subsequently, the Commission issued Resolution E-4013 on November 9, 2006, addressing billing and other system changes, which states:

In response to the parties' comments and reply comments, the Energy Division herein clarifies that *the utilities have the sole responsibility for ensuring that their respective systems are ready for CCA implementation within six months from the date the first CCA files its Implementation Plan* with the CPUC or a mutually agreed upon date between the utility and the CCA. The CCAs cannot determine which changes will be required – this is the utilities' responsibility.

(Resolution E-4013 at 7 (*italics added*).)

39. In addition to applicable sections of the Public Utilities Code and Commission decisions and resolutions, SCE has adopted various rules regarding CCA programs and filed them with the Commission. Under SCE Rule 23, SCE is responsible for collecting customer usage data and providing it to a CCA program. (SCE Rule 23, Section N.1.b.) CCA programs, like Lancaster, pay a regular fee for this and related billing services.

40. SCE Rule 23 also authorizes a CCA program to provide billing details to SCE, and once provided, obligates SCE to relay those details to CCA program customers as part of the customer's bill:

The CCA shall provide SCE with a summary of CCA charges by electronic transmittal. The CCA may provide billing-related details of CCA charges on a separate page which shall be included in the consolidated bill if transmitted with the summary charge. CCA charges which are not transmitted as required shall not be included in the consolidated bill.

(SCE Rule 23, Section P.1.c.(3).) Based on the usage data collected by SCE, a CCA program typically applies its rates and sends its charges and customer billing information back to SCE.

41. Using information supplied by a CCA program, SCE is ultimately responsible for direct billing to CCA customers. SCE Rule 23 provides that CCA bills “shall include a summary of the CCA charges and may provide any billing related details of CCA charges” (SCE Rule 23, Section P.1.b.(2).)

VIOLATIONS OF COMMISSION DECISIONS AND RESOLUTIONS

42. Lancaster incorporates by reference Paragraphs 1-41.

43. Rule 18 of the CCA Code of Conduct provides that an IOU “shall not, through a tariff provision or otherwise, discriminate between its own customers and those of a CCA” Yet, for an entire year, ever since Lancaster pre-enrolled customers in its CCA program in May 2015, SCE has discriminated against Lancaster’s NEM customers by failing to provide them with the full amount of bill credits to which they are entitled. Specifically, while SCE’s NEM customers are able to net bill credits against the including the DWR Bond Charge, the equivalent of the PCIA and the CTC, Lancaster’s NEM customers are not permitted to net their bill credits against the same charges.

44. The Commission has also ordered the IOUs to provide service to CCA NEM customers that is “consistent” with and the “same” as the service that it provides to its own NEM customers. (D.08-02-002 at 6; Ordering Paragraph 1.) For the reasons described above, SCE has not provided service to Lancaster’s NEM customers that is consistent with or the same as service that SCE provides to its NEM customers.

45. As of the date of this Complaint, because of SCE’s violations of Rule 18 of the CCA Code of Conduct and D. 08-02-002, Lancaster has 3, 317 NEM customers that are

being overcharged each month that they generate enough electricity to net bill credits against charges that are now classified under the CRS, including the DWR Bond Charge, the PCIA and the CTC. Lancaster was led to believe that the filing of AL 3308-E by SCE would timely resolve this discriminatory treatment. However, unbeknown to Lancaster at the time of SCE's filing of AL 3308-E, the billing system changes mentioned by SCE in AL 3308-E will require a substantial delay. Until such changes are made, the discriminatory treatment will continue.

46. Despite the non-discrimination provisions of Rule 18 of the CCA Code of Conduct, SCE also continues to discriminate against Lancaster's CCA customers by excluding critical pricing details, such as usage and Lancaster generation charges, from the monthly bills that SCE prepares and issues. Meanwhile, SCE provides such billing details, including usage and generation charges, to its own customers each month. (*See Exhibit 3: Bundled Customer Bill Comparison.*)

47. SCE has also violated its own rules by failing to include billing details on Lancaster's CCA customer bills. SCE Rule 23 provides that a CCA program may provide "billing-related details of CCA charges on a separate page which shall be included in the consolidated bill if transmitted with the summary charge." (SCE Rule 23, Section P.1.c.(3).) Despite the fact that Lancaster provides SCE with information about its generation charges each month, SCE does not include that information on Lancaster's customer bills.

48. Furthermore, SCE is in violation of Resolution E-4013, which provides that the IOUs have "the sole responsibility for ensuring that their respective systems are ready for CCA implementation within six months from the date the first CCA files its Implementation Plan" Lancaster is the first CCA program to file an implementation

plan in SCE's territory and Lancaster filed its initial plan with the Commission on June 9, 2014. Lancaster filed a revised implementation plan on September 29, 2014, and it was certified by the Commission's Energy Division on October 16, 2014. Under Resolution E-4013, SCE should have initiated the process of ensuring that its billing system was ready right away in order to meet the six-month deadline of December 9, 2014. Apparently, however, SCE did not begin the process at that time, or if SCE did, it did not do so on a timetable that was adequate to meet the deadline.

49. As of the date of this Complaint, SCE has been unable to properly bill Lancaster's NEM customers and failed to include Lancaster's generation charges and other details on its customer bills. SCE has indicated that the reason it is unable to properly bill and charge Lancaster's customers is that billing system changes are required. (SCE AL 3308-E at 5; Exhibit 6: SCE Response, April 15, 2016.) To the extent that SCE's failure to provide billing details to Lancaster's customers each month is a result of billing system constraints, SCE is in violation of Resolution E-4103.

REQUEST FOR RELIEF

50. This complaint seeks relief that is consistent with and advances the state policy in favor of CCA programs announced in SB 790. As stated above, this Complaint seeks an order to show cause requiring SCE to appear before the Commission at the earliest possible date to demonstrate why SCE should not be held in violation of Commission D.08-02-002, Resolution E-4013 and the CCA Code of Conduct. Pursuant to Rule 24 of the CCA Code of Conduct, Lancaster requests that the assigned Commissioner or Administrative Law Judge schedule an evidentiary hearing within 30 to 45 days from the date that this Complaint was filed.

51. This Complaint also seeks an order from the Commission directing SCE (a)

to remedy the problems with billing and charges within a reasonable amount of time, but in no event more than 3 months from the Commission's decision in this matter; (b) to immediately implement re-billing procedures to correct continuing errors in the billing to Lancaster's NEM customers caused by SCE's refusal to implement timely billing system changes; (c) to immediately issue notices to Lancaster's customers, notifying them of current problems with billing and charges and presenting a detailed plan and timetable for remedial action; and (d) to reimburse Lancaster for its reasonable costs and expenses, including attorney fees, associated with remedying SCE's discriminatory conduct.

52. In support of Lancaster's request that SCE reimburse Lancaster for its reasonable costs and expenses, including attorney fees, associated with remedying SCE's discriminatory treatment, Lancaster offers the following:

- a. SB 790, as implemented through the CCA Code of Conduct, expressly authorizes the Commission, in its expedited adjudication of CCA-related complaints, to impose fines injunctive relief, or grant any other appropriate remedy without the initiation of a separate Order Instituting Investigation. (Rule 29 of the CCA Codes of Conduct.)
- b. Public Utilities Code section 701 empowers the Commission to "do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient" in carrying out its regulatory authority. The Commission's section 701 power includes many equitable discretionary powers available to the courts, including the power to award fees. (*See San Pablo Bay Pipeline Co. v. Public Utilities Commission* (2015) 243 Cal.App.4th 295, 316.) The California Supreme Court has recognized that the Commission has power to

award attorney fees in quasi-judicial proceedings like this one. (*See Consumers Lobby Against Monopolies v. Public Utilities Com.* (1979) 25.Cal.3d 891.) Moreover, the Commission can also award attorney fees that are “reasonably” incurred in furthering a public interest, a state policy, or Commission policy. (*See Serrano v. Priest* (1977) 20 Cal.3d 25, 34-36; *San Joaquin Valley Power Authority v. Pacific Gas and Electric Company*, June 16, 2008, (D. 08-16-016) at 12 (granting the SJVPA’s request for attorney fees “reasonably incurred” in connection with a complaint to force PG&E’s compliance with marketing requirements set out by a Commission decision).)

- c. Lancaster should be allowed to recover its reasonable costs and expenses, including attorney fees, associated with remedying SCE’s discriminatory treatment. As discussed above, Lancaster has been diligent about communicating its concerns to SCE about SCE’s violations of Commission decisions and authorities, and Lancaster has exhausted every possible avenue to resolve this matter without intervention by the Commission. Lancaster incurred costs and expenses, including attorney fees, in an attempt to informally resolve its dispute with SCE, and, after those efforts failed, in the preparation of this Complaint. These costs and expenses would not have been incurred if SCE had complied with Commission decisions and authorities. Lancaster and its customers should not have to pay to correct SCE’s willful and continuing discrimination, and the Commission has the requisite authority to direct SCE to reimburse Lancaster for its costs and

expenses, including attorney fees, associated with remedying SCE's discriminatory treatment.

53. Finally, this Complaint seeks an order granting such other and further relief and remedies as the Commission deems just and equitable.

Dated: June 7, 2016

Respectfully Submitted,

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Attorneys for the City of Lancaster

Verification

I am Program Director for Lancaster Choice Energy, an enterprise of the City of Lancaster that operates the City of Lancaster's Community Choice Aggregation program. I make this verification for and on behalf of the City of Lancaster. I have read the foregoing "COMPLAINT OF THE CITY OF LANCASTER AGAINST SOUTHERN CALIFORNIA EDISON COMPANY." I declare under penalty of perjury that the contents thereof, and the facts therein stated, are true to the best of my knowledge, information and belief.

Executed on June 16, 2016, at Lancaster, California

A handwritten signature in blue ink, reading "Barbara Boswell", written over a horizontal line.

Barbara Boswell
Program Director, Lancaster Choice Energy
City of Lancaster